

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

Blue Spike, LLC,

Plaintiff,

v.

Texas Instruments, Inc. et al.,

Defendants.

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Case No. 6:12-cv-499-MHS

Lead Case

Jury Trial Demanded

BLUE SPIKE'S OPPOSITION TO CBS INTERACTIVE'S JOINDER IN AUDIBLE MAGIC'S TRANSFER MOTION [DKT. 836]

Blue Spike opposes CBS Interactive's joinder in Audible Magic's transfer motion for two reasons.

First, the joinder depends on a false premise, namely, that "CBSi is accused in the complaint in the above-referenced action based on Audible Magic Corp.'s content identification services and technology." Dkt. 836 at 2. Blue Spike's complaint against CBSi says nothing about Audible Magic. *See generally* Case No. 6:13-cv-60 MHS, Dkt. 1. It is improper for CBSi to try to stack the deck in favor of transfer by misrepresenting Blue Spike's allegations.

Second, in any event, CBSi's joinder is meaningless because "post-filing consent to jurisdiction in the transferee forum is irrelevant to the transfer analysis." *Adaptix, Inc. v. HTC Corp.*, No. 6:12-cv-121, 2013 WL 1314413, at *2 (E.D. Tex. Mar. 28, 2013).

Blue Spike respectfully asks the Court to deny CBSi's motion.

Respectfully submitted,

/s/ Randall T. Garteiser

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CERTIFICATE OF SERVICE

I, Randall T. Garteiser, am the ECF User whose ID and password are being used to file this document. I hereby certify that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3) on July 8, 2013. Pursuant to Federal Rule of Civil Procedure 5, this document was served via U.S. Mail and electronic means to counsel for Defendant that are not receiving this document via CM/ECF.

/s/ Randall T. Garteiser
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